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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/722,821 | 11/25/2003 | Andreas Wiesmuller | 1026-2 | 9368 |
| 7590 | 12/29/2005 | | EXAMINER | |
| Edward Etkin, Esq. Suite 3C 4804 Bedford Avenue Brooklyn, NY 11235 | | | LEVINE, ADAM L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3625 | |

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|------------------------------|--------------------------------|-------------------------|--|
| | 10/722,821 | WIESMULLER ET AL. | |
| | Examiner Adam Levine | Art Unit 3625 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 February 2005.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-28 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) _____ is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) 1-28 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Election/Restrictions

A telephone call was made to Applicants' Attorney, Edward Etkin (#37,824) on December 19, 2005, to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-15, drawn to a method for providing commercial services using a mobile communication device, comprising a single service control system and selection by the user of a service offered by a service provider classified in class 705, subclass 26.
 - II. Claims 16-23, drawn to a method for enabling the purchase of parking time and the policing of purchased time in a regulated parking lot through a parking control system utilizing a wireless mobile communication device, classified in class 705, subclass 1.
 - III. Claims 24-28, drawn to a system for providing commercial services using a mobile communication device, comprising at least one service system controlled by a service provider, and a distinct control system in

communication with said service system, classified in class 705, subclass 26.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed in invention I, classified in class 705, subclass 26, does not require the particulars of the subcombination as claimed because the combination is not directed to controlling paid timed parking, with all of the monitoring and attribution of enforcement penalties attendant thereto. The subcombination of invention II, classified in class 705, subclass 1, has separate utility such as for use in the control of said paid timed parking. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

3. Inventions I and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are operated in different ways. Invention I is directed to a method that enables the user to select a service offered by a service

provider through a service control system. Invention III is a system directed to at least one service system under the control of a service provider, allowing the service provider to offer a service to at least one user through a control system. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group III, restriction for examination purposes as indicated is proper.

4. Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are operated differently and are directed toward a method and system that operate in completely different ways. Invention II is directed to a method for allowing the purchase of parking time in a pay parking space and the monitoring and attribution of attendant enforcement penalties, classified in class 705, subclass 1. Invention III, classified in class 705, subclass 26, is directed to a system under control of a service provider that allows the service provider to offer a service to a user through a control system. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam Levine whose telephone number is 571.272.8122. The examiner can normally be reached on M-F, 8:30-5:00 Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on 571.272.7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Adam Levine
Patent Examiner
December 23, 2005



WYNN W. COGGINS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600